

PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE

Minutes of Meeting
March 18, 2009
Olympia, Washington

Members Present: Chair Tom Carr, Ramsey Ramerman, Roselyn Marcus, Patience Rogge, Frank Garred, Tim Ford, Candy Jackson and Rowland Thompson.

Members Absent: Senator Pam Roach, Senator Adam Kline, Representative Jay Rodne, Representative Lynn Kessler and Ken Bunting.

Staff Present: Jean Wilkinson, Counsel; Ruthann Bryant, Staff Support

Opening: Chair Tom Carr called to order the meeting of the Public Records Exemption Accountability Committee at 9:00 a.m. on March 18, 2009, at 2425 Bristol Court S.W., Olympia, WA.

- 1) **Approval of March 18, 2009 agenda.** Chair Carr proposed moving Item 4, Discussion of bills pending in the Legislature, to the end of the agenda. *Chair Carr moved to adopt the agenda as amended, seconded by Rowland Thompson. The motion passed unanimously.*
- 2) **Approval of Final Minutes for November 12, 2008 Sunshine Committee Meeting.** *Roselyn Marcus moved to adopt as presented, seconded by Rowland Thompson. The motion passed unanimously.*
- 3) **Possible modifications to Exemptions Criteria Worksheet and Schedule of Review.** Jean Wilkinson summarized the current Exemptions Criteria Worksheet and Schedule of Review. The committee discussed the schedule and the necessity of legislative history. *Rowland Thompson moved to amend the agenda to move up items 8, 10 and 13 to accommodate public comment and discuss committee business at the end of the agenda, seconded by Roselyn Marcus. The motion passed unanimously.*
- 4) **RCW 42.56.330(7) – Personally identifying information of persons who use transponders and other technology to facilitate payment of tolls.** Jean Wilkinson briefly provided background on information for people who use transponders. The committee will hold further discussion and possible vote at the May 12, 2009 meeting.
- 5) **RCW 42.56.010(2) Legislative Records**

Public Comment:

Jason Mercier, Washington Coalition for Open Government, commented that Legislators should not have separate rules

Chair Carr noted that no vote is scheduled for this issue, only discussion. The matter will be discussed at the May 12, 2009 meeting when Legislators have an opportunity to attend.

- 6) **RCW 42.56.330(8) – Personally identifying information on an ID card that contains a chip to facilitate boarder crossing** Ms. Wilkinson provided background information and noted that the information collected is similar to the information collected from drivers license applications.

Public Comment:

Becky Loomis, Department of Licensing, commented that the ID chip does not contain personal information, only an electronic identification number that can be matched to personal information in a database.

**7) RCW 42.56.330(1) – Valuable commercial information, trade secrets, etc., supplied to the Utilities Transportation Commission
RCW 80.04.095 – Utility records filed with the Utilities Transportation Commission containing valuable commercial information.**

Ms. Wilkinson summarized the exemption, provided legislative history and discussed the background of the Utilities Transportation Commission.

Public Comment:

Steven Secrist, Deputy General Counsel for Puget Sound Energy, opposes changing the exemption stating that eliminating the exemption would likely impair the competitive positions of utilities within the state, resulting in increased costs to the utilities' customers.

Lisa Anderl, Associate General Counsel for Qwest, urged the Committee to retain the exemption.

Rick Finnigan, Counsel to Washington Independent Telecommunications Association, stated that small companies face competition from large wireless companies and releasing the sensitive information in the public domain could be highly damaging. He urged the Committee to preserve the exemption.

Attorney Greg Kopta, concurred with previous public comment and urged that the exemption be maintained.

Roselyn Marcus moved to recommend no change to RCW 42.56.330(1), seconded by Ramsey Ramerman. The motion passed unanimously.

**8) RCW 42.56.230(1) – Personal information in files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.
RCW 42.52.250(3) – Public employee/volunteer personal information. RCW 42.56.230(2) – Personal information in files maintained for employees and officials to the extent that disclosure would violate their right to privacy.** At the November 12, 2008 meeting, the committee repealed a recommendation regarding RCW 42.56.230(1) which was adopted by the committee on July 8, 2008. At that time, Mr. Ramerman requested further information from counsel and suggested a possible working group to gather additional information.

Mr. Ramerman summarized public comment he received regarding personal information of governmental and law enforcement personnel and their families. He also followed up on forming a work group to look at whether a broad exemption for personal information would be feasible. Tim Ford expressed concern with a global approach. *Ramsey Ramerman moved to form a subcommittee to collectively look at personal information exemptions. Seconded by Rowland Thompson. The motion passed unanimously.*

Ramsey Ramerman and Rowland Thompson will serve on the subcommittee.

9) RCW 42.56.330(2) - Residential addresses and phone numbers in public utility records RCW 42.56.335 – Law enforcement access to customer records held by a public utility district or municipality owned electrical utility. Ms. Wilkinson briefly discussed the exemption and provided legislative history.

10) RCW 42.56.330(6) – Information obtained by governmental agencies and collected by the use of a motor carrier intelligent transportation system or comparable information equipment. Ms.

Wilkinson briefly discussed the exemption and provided legislative history. The committee recommends no change to this exemption and will place the matter on the May 12, 2009 meeting agenda for a vote.

- 11) Recommendation of “limitation of waiver” provision.** Ramsey Ramerman summarized a recommendation that would limit any waiver of an exemption to the records actually produced.
- 12) Discussion of bills pending in Legislature.** Tim Ford briefly updated the Committee on current legislature that may have an affect on RCW 42.56.
- 13) Possible modifications to Exemptions Criteria Worksheet and Schedule of Review (cont.)**
At the May meeting, written background and legislative materials will be streamlined. Staff will prepare a document containing all exemptions relating to insurance, which will contain the text of these exemptions and selected legislative bill reports. This will allow Committee members to read the text of a long list of related exemptions and discuss whether they would like additional information, and how the Committee will proceed in its review. In addition, the public will have the opportunity to provide comment on exemptions.

Finally, Committee members should provide feedback to staff on whether the new format presenting background information is helpful.

- 14) Bylaws.** Jean Wilkinson summarized possible amendments to the bylaws under Article V: Meetings and Article VI: Citizen Input. *Chair Carr moved to amend the bylaws as proposed, without the new sentence in Article V, Section 5: Meeting Agenda, regarding member requests to discuss exemptions, seconded by Tim Ford. The motion passed unanimously.*

Chair Carr adjourned the meeting at approximately 1:00 p.m.

Approved: May 12, 2009